

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1351 be recommitted to a Committee of One, its author, with specific instructions to amend as follows:

- 1 Page 2, line 9, delete "IC 36-7-15.5-35.5(e)" and insert "**IC**
- 2 **36-7-15.1-35.5**".
- 3 Page 8, between lines 36 and 37, begin a new paragraph and insert:
- 4 "SECTION 7. IC 6-3.1-9.5 IS ADDED TO THE INDIANA CODE
- 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 6 JANUARY 1, 2008]:
- 7 **Chapter 9.5. Affordable Housing Fund Donation Credit**
- 8 **Sec. 1. As used in this chapter, "authority" means the Indiana**
- 9 **housing and community development authority established by**
- 10 **IC 5-20-1-3.**
- 11 **Sec. 2. As used in this chapter, "eligible entity" means:**
- 12 **(1) an eligible entity (as defined in IC 5-20-5-3) that has**
- 13 **established an affordable housing fund under IC 5-20-5-15.5;**
- 14 **or**
- 15 **(2) a county containing a consolidated city that has established**
- 16 **a housing trust fund under IC 36-7-15.1-35.5(e).**
- 17 **Sec. 3. As used in this chapter, "pass through entity" means a:**
- 18 **(1) corporation that is exempt from the adjusted gross income**
- 19 **tax under IC 6-3-2-2.8(2);**
- 20 **(2) partnership;**
- 21 **(3) trust;**
- 22 **(4) limited liability company; or**
- 23 **(5) limited liability partnership.**
- 24 **Sec. 4. As used in this chapter, "qualified contribution" means**

1 a contribution that:

2 (1) is made by a taxpayer to an eligible entity; and

3 (2) is designated by the taxpayer for deposit in:

4 (A) the eligible entity's affordable housing fund, in the case
5 of an eligible entity described in section 2(a) of this
6 chapter; or

7 (B) the eligible entity's housing trust fund, in the case of an
8 eligible entity described in section 2(b) of this chapter.

9 Sec. 5. As used in this chapter, "state tax liability" means the
10 taxpayer's total tax liability that is incurred under:

11 (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
12 and

13 (2) IC 6-5.5 (the financial institutions tax);

14 as computed after the application of the credits that, under
15 IC 6-3.1-1-2, are to be applied before the credit provided by this
16 chapter.

17 Sec. 6. As used in this chapter, "taxpayer" means any person,
18 corporation, limited liability company, partnership, or other entity
19 that has any state tax liability. The term includes a pass through
20 entity.

21 Sec. 7. (a) If:

22 (1) a taxpayer makes a contribution to an eligible entity; and

23 (2) the authority certifies that the contribution is a qualified
24 contribution;

25 the taxpayer is entitled to a credit against the taxpayer's state tax
26 liability for the taxable year in which the contribution is made.

27 (b) Subject to section 9 of this chapter, the amount of the credit
28 to which a taxpayer is entitled under subsection (a) in a taxable
29 year equals the lesser of:

30 (1) fifty percent (50%) of the amount of the qualified
31 contribution; or

32 (2) twenty-five thousand dollars (\$25,000).

33 (c) The credit provided by this chapter may be applied only
34 against any state tax liability owed by the taxpayer after the
35 application of any credits, which under IC 6-3.1-1-2 must be
36 applied before the credit provided by this chapter.

37 (d) If a pass through entity is entitled to a credit under
38 subsection (a) but does not have state tax liability against which the
39 tax credit may be applied, a shareholder, partner, or member of
40 the pass through entity is entitled to credit equal to:

41 (1) the credit determined for the pass through entity for the
42 taxable year; multiplied by

43 (2) the percentage of the pass through entity's distributive
44 income to which the shareholder, partner, or member is
45 entitled.

46 The credit provided under this subsection is in addition to a credit
47 to which a shareholder, partner, or member of a pass through

entity is otherwise entitled under this chapter. However, a pass through entity and a shareholder, partner, or member of the pass through entity may not claim a credit under this chapter for the same qualified contribution.

Sec. 8. (a) A taxpayer that desires to claim a tax credit under this chapter shall file with the department, in the form that the department may prescribe, an application stating:

(1) the amount of the contribution that the taxpayer proposes to make to a specified eligible entity;

(2) the amount of the contribution described in subsection (a) that will be designated for deposit in the eligible entity's:

(A) affordable housing fund established under IC 5-20-5-15.5; or

(B) housing trust fund established under IC 36-7-15.1-35.5(e);

whichever applies; and

(3) the amount sought to be claimed as a credit.

(b) The department shall promptly notify an applicant whether, or the extent to which, the tax credit is allowable in the state fiscal year in which the application is filed, as provided in section 9 of this chapter. If the credit is allowable in that state fiscal year, the applicant shall, not later than thirty (30) days after receipt of the notice, file with the department of state revenue a statement, in the form that the department may prescribe, setting forth that the amount to be claimed as a credit under this chapter has been contributed to the eligible entity identified in the application for deposit in the eligible entity's:

(1) affordable housing fund established under IC 5-20-5-15.5; or

(2) housing trust fund established under IC 36-7-15.1-35.5(e);

whichever applies. The statement required under this subsection shall be accompanied by any proof of payment that the department may require. The department may disallow any credit claimed under this chapter for which the statement or proof of payment required under this subsection is not filed within the thirty (30) day period prescribed by this subsection.

Sec. 9. (a) The amount of tax credits allowed under this chapter may not exceed three million dollars (\$3,000,000) in any state fiscal year.

(b) The department shall record the time of filing of each application made under section 8 of this chapter and shall approve the applications, if they otherwise qualify for a tax credit under this chapter, in the chronological order in which the applications are filed in the state fiscal year.

(c) When the total credits approved under this section equal the maximum amount allowable in any state fiscal year, no application subsequently filed for that same fiscal year shall be approved.

1 However, if any applicant for whom a credit has been approved
 2 fails to file the statement of proof of payment required under
 3 section 8 of this chapter, an amount equal to the credit previously
 4 allowed or set aside for the applicant may be allowed to any
 5 subsequent applicant in the year. In addition, the department may,
 6 if the applicant so requests, approve a credit application, in whole
 7 or in part, with respect to the next succeeding state fiscal year.

8 **Sec. 10. A tax credit is allowable under this chapter only for the**
 9 **taxable year of the taxpayer in which the contribution qualifying**
 10 **for the credit is made.**

11 **Sec. 11. The department may consult with the authority to adopt**
 12 **rules under IC 4-22-2 to implement this chapter."**

13 Page 9, line 13, strike "state general fund" and insert "**affordable**
 14 **housing and community development fund established by**
 15 **IC 5-20-4-7"**.

16 Page 13, line 4, delete "IC 36-7-15.5-35.5(e)" and insert
 17 "**IC 36-7-15.1-35.5(e)"**.

18 Page 16, after line 36, begin a new paragraph and insert:

19 "**SECTION 11. [EFFECTIVE JANUARY 1, 2008] IC 6-3.1-9.5, as**
 20 **added by this act, applies to a taxable year beginning after**
 21 **December 31, 2007."**

22 Renumber all SECTIONS consecutively.

(Reference is to HB 1351 as reprinted February 24, 2007.)

Representative Bardon

Adopted

Rejected

COMMITTEE REPORT

MR. SPEAKER:

Your Committee of One, to which was referred House Bill 1351, begs leave to report that said bill has been amended as directed.

Representative Bardon